

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION
THIS DOCUMENT RELATES TO J&J CLASS 1

Master Civil No. 01-cv-12257

MDL No. 1456

Judge Patti B. Saris

**CLASS COUNSEL’S PARTIALLY UNOPPOSED MOTION TO VACATE MAY 3RD
HEARING ON NOTICE OF VOLUNTARY DISMISSAL FILED BY DON HAVILAND**

Class Counsel respectfully move the Court for an order (a) vacating the May 3rd hearing on the Notice of Voluntary Dismissal filed by Don Haviland for the Class 1 J&J Plaintiffs and (b) setting a hearing on Class Counsel’s Motion for Sanctions against Don Haviland after that Motion is fully briefed. As grounds for the foregoing, Class Counsel state as follows:

1. On March 26, 2010, Don Haviland filed a Notice of Voluntary Dismissal to dismiss the “individual claims” of Class 1 plaintiffs Larry Young and Ken Wright without prejudice. *See* Dkt No. 7013. On March 31st, this Court held a status hearing which Class Counsel and counsel for J&J attended. At that hearing the Court asked Class Counsel and counsel for J&J to submit position statements regarding the Notice and set a hearing for May 3rd at 4:00 p.m. to discuss the Notice and the parties’ position statements regarding it.

2. On April 16, 2010, both J&J and Class Counsel filed their Position Statements. *See* Dkt Nos. 7056 and 7058. In addition, Class Counsel filed a Motion for Sanctions against Mr. Haviland due to his conduct in connection with the withdrawal of his clients. *See* Dkt No. 7059.

3. Mr. Haviland's opposition to Class Counsel's Motion is currently due April 30, 2010. In addition, Class Counsel anticipate filing a reply brief in support of their Motion by May 17th.

4. Class Counsel respectfully submit that, rather than proceeding with the hearing currently scheduled for May 3rd, it would be more efficient for the Court to vacate that hearing and instead address all issues related to Mr. Haviland's Notice at a hearing on Class Counsel's Motion for Sanctions. Class Counsel have conferred with counsel for the J&J Defendants and they do not oppose this request. Mr. Haviland opposes this motion. The parties respectfully request that this Court set a hearing at its convenience in late May or early June.

WHEREFORE Class Counsel respectfully request that the Court for an order vacating the May 3rd hearing on the Notice of Voluntary Dismissal filed by Don Haviland and set a hearing on Class Counsel's Motion for Sanctions against Don Haviland after that Motion is fully briefed.

DATED: April 28, 2010

Respectfully submitted,

By: /s/ Jennifer Fountain Connolly

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

In re Pharmaceutical Industry Average Wholesale Price Litigation
Master Case No. 01-cv-12257, MDL 1456

I, Jennifer Fountain Connolly, hereby certify that I am one of Class Plaintiffs' attorneys and that, on April 28, 2010, I caused a copy of ***Class Counsel's Partially Unopposed Motion to Vacate May 3rd Hearing on Notice of Voluntary Dismissal Filed by Don Haviland*** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Jennifer Fountain Connolly

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